

COMMENTS

The enclosed is responsive to the Examiner's Final Office Action mailed on December 9, 2008, and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Office Action claims 1-8, 10-18, 20-28 and 30 were pending. By way of the present response the Applicant has canceled claims 1-8, 10-18, 20-28 and 30 and has added new claims 31-57. As such claims 31-57 are now pending. The Applicant respectfully requests reconsideration of the present application and the allowance of all pending claims.

The Examiner has rejected the Applicant's independent claims for failing to define the acronym "IS". See, Examiner's Office Action mailed 12/9/08, p. 2. The Applicant's new claims define the acronym "IS" to mean "information system." The examiner is referred to paragraph [0003] of the Applicant's specification for support for this amendment. The Applicant respectfully submits that the basis for the Examiner's rejection has been overcome by way of this amendment.

The Examiner has maintained that the independent claims of the present application are anticipated by the Naganathan reference. See, Examiner's Office Action, 12/9/08, pp. 3 - 4.

The Applicant has amended the independent claims of the instant application to clarify their scope. New independent claim 31 now recites (emphasis added):

executing a testing scenario, said executing of said testing scenario including repeatedly receiving request messages from an entity over a network at a testing application on a server or servlet engine, said testing application being a software program that tests availability of other software programs and/or components, at least one of said software components including a login procedure for its availability test, said request messages identifying a set of software components being: a) servable and/or invokable by said server or servlet engine; b) associated with said testing scenario; and, c) used by a same business logic process within an information system infrastructure, and, at least one of said request messages providing a respective user identification for the at least one software component including a login procedure for its availability test; and,

said executing of said testing scenario comprising, in response to each of said request messages:

said testing application testing said set of software components for availability and

preparing and sending onto said network a response message to report, to the entity, availability or unavailability of said set of software components, said entity having sent said response message's corresponding request message.

In view of the highlighted sections of independent claim 31 above, the Examiner's rejection appears to take the following positions:

- 1) the dummy transactions described in paragraphs [0012], [0013] and [0044] of Naganathan meet the “repeatedly receiving request messages . . . at a testing application . . . said testing application being a software program **that tests availability** of other software programs and/or components” limitation;
- 2) paragraph [0044] of Naganathan discloses request messages **that identify** a set of software components that are: a) servable and/or invokable by a server or servlet engine; b) associated with a testing

scenario; and, c) used by a same business logic process within an information system infrastructure;

- 3) paragraph [0034] of Naganathan discloses at least one software component that includes a login procedure for its availability test and a corresponding request message that includes a user identification for the login procedure.

With respect to positions 1), 2), and 3) above, the Applicant responds as follows.

With respect to 1) above, the Examiner's rejection is flawed because paragraphs [0012], [0013] and [0044] of Naganathan only disclose that "services" are "regularly contacted" by "regularly sending" dummy transactions to a "service". By contrast the Applicant's claims recite that a "testing application" "repeatedly [receives] request messages" where a testing application is a "software program that tests availability of other software programs and/or components." The Examiner has not shown that the "service" of Naganathan is a "testing application" as claimed by the Applicant. Therefore the Examiner's basis for rejection is insufficient.

With respect to 2) above, the Examiner's rejection is insufficient at least because paragraph [0044] does not disclose anything concerning what a request message identifies.

With respect to 3) above, the Examiner's rejection is insufficient at least because paragraph [0034] does not disclose a request message that includes a user identification for a login procedure for an availability test of a software component.

For at least these reasons the Applicant respectfully submits that the independent claims of the instant application are allowable over the Naganathan reference and respectfully requests the allowance of the same.

CONCLUSION

For the reasons provided above, applicant respectfully submits that the current set of claims are allowable. If the Examiner believes an additional telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call Robert B. O'Rourke at (408) 720-8300.

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: 2-09-09/

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